



FISCAL MEMORANDUM

HB 2329 - SB 2796

March 29, 2022

SUMMARY OF BILL AS AMENDED (016697): Increases the penalty, from a Class C misdemeanor to a Class A misdemeanor, for the offense of intentionally and without authorization accessing a computer, computer system, or computer network.

Increases the penalty, from a Class B misdemeanor to a Class A misdemeanor, for the offense of intentionally and without authorization introducing or being responsible for the malicious input of a computer contaminant into a computer, computer system, or computer network.

Creates a Class A misdemeanor offense for intentionally and without authorization possessing a computer contaminant.

FISCAL IMPACT OF BILL AS AMENDED:

NOT SIGNIFICANT

Assumptions for the bill as amended:

- According to state conviction data provided by the Administrative Office of the Courts (AOC), there have been no Class C or Class B misdemeanor convictions for the offenses of either intentionally and without authorization accessing a computer, computer system, or computer network, or introducing or being responsible for the malicious input of a computer contaminant into a computer, computer system, or computer network in the last five years. Therefore, increasing the penalty from a Class C and Class B misdemeanor, respectively, to a Class A misdemeanor for those offenses is not expected to result in a significant increase in state or local expenditures related to incarcerations.
- Tennessee Code Annotated § 39-14-602(a) and (b) enumerate, and the proposed legislation maintains, several criminal actions related to malicious computer activity that result in theft, fraud, or property damage that are punishable under Tenn. Code Ann. § 39-14-105, which governs the grading of penalties for theft of property and services.
- According to AOC, there have been a total of 15 state felony convictions over the last five years for crimes committed under Tenn. Code Ann. § 39-14-602(a) and (b), punishable under Tenn. Code Ann. § 39-14-105.
- The proposed legislation also creates a Class A misdemeanor offense of intentionally and without authorization possessing a computer contaminant.
- It is assumed that in almost all cases the discovery of the possession of a computer contaminant will occur in relation to the investigation or discovery of other crimes

related to the use of such computer contaminant or other criminal activity conducted over computers, or computer systems and networks, that are currently subject to prosecution and penalties at least as severe as a Class A misdemeanor. It is assumed that prosecution solely for the possession of a computer contaminant will be exceedingly rare. For that reason, the creation of this new Class A misdemeanor offense is not expected to result in a significant increase in state or local expenditures related to incarcerations.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink that reads "Krista Lee Carsner". The signature is written in a cursive, flowing style.

Krista Lee Carsner, Executive Director

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